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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,015	03/31/2004	Jed W. Fahey	033793-0108	5262
22428 7590 06/29/2007 FOLEY AND LARDNER LLP		EXAMINER		
SUITE 500			KWON, BRIAN YONG S	
	3000 K STREET NW WASHINGTON, DC 20007		ART UNIT	PAPER NUMBER
			1614	
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			MAIL DATE	DELIVERY MODE
•			06/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary Total Summary		Application No.	Applicant(s)
Brian S. Kwon 1914 The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, PROM THE MAILING DATE OF THIS COMMUNICATION. WHICHEVER IS LONGER, PROM THE MAILING DATE OF THIS COMMUNICATION. If NO period for reply is specified above, the mask-main statutory period will apply and will expire SIX (5) MONTHS from the mailing date of this communication. Failure for given when the set or sendered period for righy is specified above, the mask-main statutory period will apply and will expire SIX (5) MONTHS from the mailing date of this communication. Failure for given when the set of sendered period for righy is specified above, the mask-main statutory period will apply and will expire SIX (5) MONTHS from the mailing date of this communication. Failure for given when the set of sendered period for righy will be stated to severe application (5) SIX to 2.5 (2) SIX (2.5 (3) SIX (2.5 (3) SIX (3.5 (3) SIX		10/813,015	FAHEY, JED W.
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Earliestons of time may be available under the provisions of 37 CFR 1-136(a). In no event, however, may a reply be timely filled. - Earliestons of time may be available under the provisions of 37 CFR 1-136(a). In no event, however, may a reply be timely filled. - Earliestons of time may be available under the provisions of 37 CFR 1-136(a). In no event, however, may a reply be timely filled. - Earlieston to reply a specified above, he maximum statutory period with under the making date of this communication. Parallulus to reply within the set or extended period for reply with, be set or extended period for reply with. But the making date of this communication, even if timely filed, may reduce any autred patent term adjustment. See 37 CFR 1-704(b). - Status 1) □ Responsive to communication(s) filled on 31 March 2004. 2a) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 39-81 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5□ □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are rejected to be searched. 2 □ Claim(s) 39-81 are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10 □ The drawing(s) filled on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The earth or declaration is objected to by		Brian S. Kwon	1614
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Election/Restrictions

1. This application contains claims directed to the following patentably distinct species: (i) glucosinolate or a derivative thereof and (ii) isothiocyanate or a derivative thereof. The species are independent or distinct because chemical structure of glucosinolate significantly differs from isothicyanate and they are generally acquired a separate status in the art due to their different classification.

Applicant is required under 35 U.S.C. 121 to elect <u>a single disclosed species</u>, for example sulforaphone from isothiocyanate, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 39-81 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. In addition, applicant is required under 35 U.S.C. 121 to elect a single disclosed species from (i) one agent (monotherapy) selected from glucosinolate, isothiocyanate or a derivative thereof, (ii) combination of one or more glucosinolate, isothiocyanate and/or a derivative thereof, (iii) one agent (monotherapy) selected from glucosinolate, isothiocyanate or a derivative thereof + antibiotics, (iv) one agent (monotherapy) selected from glucosinolate, isothiocyanate or a

derivative thereof + H2 inhibitor, (v) combination of one or more glucosinolate, isothiocyante and/or a derivative thereof + antibiotics and (vi) combination of one or more glucosinolate, isothiocyante and/or a derivative thereof + H2 inhibitor, for example sulforaphone monotherapy, under the instant claims of the elected Group. Moreover, whatever specific compound or combination is ultimately elected, applicants are required to list all claims readable thereon.

With the election of a specific exemplified compound or combination, a generic concept will be identified by the examiner as the inventive group for examination.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (571) 272-0581. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718. The fax number for this Group is (571) 273-8300.

Application/Control Number: 10/813,015

Art Unit: 1614

Page 4

should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Any inquiry of a general nature of relating to the status of this application or proceeding

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications may be obtained from Private PAIR only. For more information about PAIR system,

see http://pair-direct.uspto.gov Should you have any questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Brian Kwon

Primary Patent Examiner

AU 1614

18.1